

**A**

FILED  
CLERK'S OFFICE

AUG 15 AM 11

**COMMONWEALTH OF MASSACHUSETTS**

**Hampshire, ss**

**Superior Court  
Civil Action No. 2003-083**

**U.S. DISTRICT COURT  
DISTRICT OF MASS.**

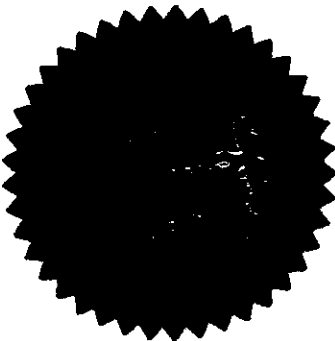
**CERTIFICATION**

I, Harry Jekanowski, Jr., Clerk of the Superior Court for the County of Hampshire do hereby  
certify that the attached is a true copy of the entire file in Civil Action 2003-083.

Vincent Gillespie

VS.

Eli Lilly Company



Witness my hand and the seal of the

Superior Court Department of the Trial

Court this 13th day of August 2003.

  
\_\_\_\_\_  
Harry Jekanowski, Jr.  
Clerk/Magistrate

MAS-20030312  
shepardpCommonwealth of Massachusetts  
HAMPSHIRE SUPERIOR COURT  
Case Summary  
Civil Docket08/13/2003  
02:08 PMHSCV2003-00083  
Gillespie et al v Eli Lilly Company et al

|                    |            |                  |  |
|--------------------|------------|------------------|--|
| <b>File Date</b>   | 04/25/2003 | <b>Status</b>    | Disposed: transfered to other court (dtrans) |
| <b>Status Date</b> | 08/13/2003 | <b>Session</b>   | A - Civil A- CtRm 2-3rd fl                   |
| <b>Origin</b>      | 1          | <b>Case Type</b> | B08 - Wrongful death (229.002A)              |
| <b>Lead Case</b>   |            | <b>Track</b>     | A  |

|                  |            |                    |            |                     |            |
|------------------|------------|--------------------|------------|---------------------|------------|
| <b>Service</b>   | 07/24/2003 | <b>Answer</b>      | 09/22/2003 | <b>Rule12/19/20</b> | 09/22/2003 |
| <b>Rule 15</b>   | 07/18/2004 | <b>Discovery</b>   | 06/13/2005 | <b>Rule 56</b>      | 08/12/2005 |
| <b>Final PTC</b> | 12/10/2005 | <b>Disposition</b> | 04/24/2006 | <b>Jury Trial</b>   | Yes        |

## PARTIES

**Plaintiff**  
 Vincent Gillespie  
 P.O. Box 741  
 Northampton, MA 01060  
 Phone: 413-695-3637  
 Active 04/25/2003 Notify

**Plaintiff**  
 Does 1-100  
 Active 04/25/2003

**Defendant**  
 Eli Lilly Company  
 Served: 07/17/2003  
 Served (answr pending) 07/24/2003 Notify

**Defendant**  
 Does 1-100  
 Dismissed under time standards 08/01/2003

FILED  
 CLERK'S OFFICE  
 10 JUL 15 A 11:11  
 U.S. DISTRICT COURT  
 DISTRICT OF MASS.

## ENTRIES

| Date       | Paper | Text   |
|------------|-------|--|
| 04/25/2003 | 1.0   | Complaint & civil action cover sheet filed     |
| 04/25/2003 |       | Origin 1, Type B08, Track A.                   |
| 04/25/2003 |       | Tracking notice mailed to plaintiff.           |
| 07/24/2003 | 2.0   | SERVICE RETURNED: Eli Lilly Company(Defendant) |

MAS-20030312  
shepardpCommonwealth of Massachusetts  
HAMPSHIRE SUPERIOR COURT  
Case Summary  
Civil Docket08/13/2003  
02:08 PMHSCV2003-00083  
Gillespie et al v Eli Lilly Company et al

| Date       | Paper | Text  |
|------------|-------|---|
| 08/01/2003 | 3.0   | Dismiss: Does 1-100 (defendant): servc not complete by 1-88 deadline.<br>Copy mailed to plaintiff.  |
| 08/13/2003 | 4.0   | Notice for Removal to the United States District Court filed by Eli Lilly Company.  |
| 08/13/2003 |       | Case REMOVED this date to US District Court of Massachusetts.<br>Certified copy of all pleadings and docket entries mailed to U.S. District Court in Springfield. |

## EVENTS



2003 AUG 11 A 8:51

**ATTORNEYS FOR DEFENDANT  
ELI LILLY AND COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8th day of August, 2003, a true and correct copy of Defendant Eli Lilly and Company's Notice to Plaintiff of Filing Notice of Removal was mailed via first class U.S. Mail, postage prepaid, to the following *pro se* plaintiff:

Vincent Gillespie  
P.O. Box 741  
Northampton, MA 01027

  
\_\_\_\_\_  
ATTORNEY FOR DEFENDANT  
ELI LILLY AND COMPANY

HAMPSHIRE SUPERIOR CRT  
COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT

HAMPSHIRE, ss.

2003 AUG 11 A 8:51

SUPERIOR COURT  
CIVIL ACTION  
NO. 03-083

VINCENT GILLESPIE  
AND DOES 1-100,

Plaintiffs,

vs.

ELI LILLY AND COMPANY  
AND DOES 1-100,

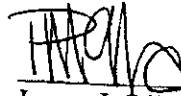
Defendants.

NOTICE TO CLERK  
OF REMOVAL

TO: Clerk of the Commonwealth of Massachusetts, Department of the Trial Court, Hampshire Superior Court

You are hereby notified that Defendant Eli Lilly and Company has on the 8th day of August, 2003, filed in the United States District Court for the District of Massachusetts a notice of removal of the above-entitled cause, a copy of which is attached hereto and made part of the Notice to Clerk of Removal by this reference, for your information and guidance.

Respectfully submitted,



James J. Dillon, BBO # 124660

Paula M. McManus, BBO #648029

FOLEY HOAG, L.L.P.

155 Seaport Boulevard

Boston, Massachusetts 02210

(617) 832-1000

(617) 832-7000

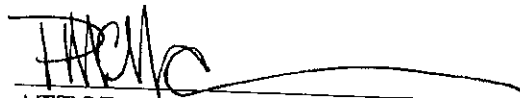
ATTORNEYS FOR DEFENDANT  
ELI LILLY AND COMPANY



**CERTIFICATE OF SERVICE**

I hereby certify that on this 8th day of August, 2003, a true and correct copy of Defendant Eli Lilly and Company's Notice to Clerk of Removal was mailed via first class U.S. Mail, postage prepaid, to the following *pro se* plaintiff:

Vincent Gillespie  
P.O. Box 741  
Northampton, MA 01027

  
\_\_\_\_\_  
ATTORNEY FOR DEFENDANT  
ELI LILLY AND COMPANY

|   |                          |   |   |                       |
|---|--------------------------|---|---|-----------------------|
| <b>CIVIL ACTION<br/>COVER SHEET</b>   |                          | Docket NO.(S)   | <b>Superior Court of Massachusetts<br/>Superior Court Department</b><br>County: |                       |
| PLAINTIFF(S)<br><i>Vincent Gillespie</i>  |                          | DEFENDANT(S)<br><i>Eli Lilly</i>  |   |                       |
| ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE<br><i>Pro se</i>   |                          | ATTORNEY (if known)<br><div style="text-align: right;"> <i>2003 APR 25 P 12:50</i> </div>                     |   |                       |
| <b>Origin code and track designation</b>  |                          |   |   |                       |
| Place an x in one box only:   |                          |   |   |                       |
| <input checked="" type="checkbox"/> 1. F01 Original Complaint   |                          | <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)                    |   |                       |
| <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)   |                          | <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) |   |                       |
| <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)  |                          | <input type="checkbox"/> 6. E10 Summary Process Appeal (X)  |   |                       |
| <b>TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)</b>  |                          |   |   |                       |
| CODE NO.  | TYPE OF ACTION (specify) | TRACK   | IS THIS A JURY CASE?  |                       |
| <i>B08</i>  | <i>wrongful death</i>    | <i>(A)</i>  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No             |                       |
| The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.  |                          |   |   |                       |
| <b>TORT CLAIMS</b><br>(Attach additional sheets as necessary)   |                          |   |   |                       |
| A. Documented medical expenses to date:   |                          |   |   |                       |
| 1. Total hospital expenses .....  |                          |   |   | \$ .....              |
| 2. Total Doctor expenses .....  |                          |   |   | \$ .....              |
| 3. Total chiropractic expenses .....  |                          |   |   | \$ .....              |
| 4. Total physical therapy expenses .....  |                          |   |   | \$ .....              |
| 5. Total other expenses (describe) .....  |                          |   |   | \$ .....              |
| <b>Subtotal</b>   |                          |   |   | <b>\$ .....</b>       |
| B. Documented lost wages and compensation to date .....   |                          |   |   |                       |
| C. Documented property damages to date .....  |                          |   |   |                       |
| D. Reasonably anticipated future medical and hospital expenses .....  |                          |   |   |                       |
| E. Reasonably anticipated lost wages .....  |                          |   |   |                       |
| F. Other documented items of damages (describe) .....   |                          |   |   |                       |
|   |                          |   |   | \$ .....              |
| G. Brief description of plaintiff's injury, including nature and extent of injury (describe)  |                          |   |   |                       |
|   |                          |   |   | \$ .....              |
| <b>TOTAL</b>  |                          |   |   | <b>\$ .....</b>       |
| <b>CONTRACT CLAIMS</b><br>(Attach additional sheets as necessary)   |                          |   |   |                       |
| Provide a detailed description of claim(s):   |                          |   |   |                       |
|   |                          |   |   | <b>TOTAL \$ .....</b> |
| PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT   |                          |   |   |                       |
| "I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods." |                          |   |   |                       |
| Signature of Attorney of Record <i>Vincent Gillespie, Pro se</i>  |                          |   |   | DATE: <i>4/25/03</i>  |

SCANNED

4

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
WESTERN DIVISION

03 083  
FILED  
CLERK'S OFFICE  
10-2-03 P 2:41

VINCENT GILLESPIE  
AND DOES 1-100,

Plaintiffs,

v.

ELI LILLY AND COMPANY  
AND DOES 1-100,

Defendants.

) CASE NO. \_\_\_\_\_  
)  
) JURY TRIAL DEMANDED  
)  
) DEFENDANT ELI LILLY AND  
) COMPANY'S NOTICE OF  
) REMOVAL OF CIVIL ACTION  
)  
)  
)

03 - 30196 - KPN

NOTICE OF REMOVAL OF CIVIL ACTION

FILING FEE PAID:  
RECEIPT # 305308  
AMOUNT \$ 150.00  
BY DFTY CLK. *WJL*  
DATE 8/2/03

COMES NOW Defendant Eli Lilly and Company ("Lilly"), and, pursuant to 28 U.S.C. § 1441, notices the removal of this action from the Hampshire Superior Court, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts. The grounds for removal are set forth below.

**I. INTRODUCTION**

Plaintiffs Vincent Gillespie and "Does 1-100" ("plaintiffs") filed their Complaint on or about April 25, 2003. In their Complaint, plaintiffs claim that their decedent, Gregory Gillespie ("decedent"), took Prozac®, a prescription antidepressant medication manufactured by Lilly. Plaintiffs further allege that the decedent's ingestion of Prozac® caused the decedent to kill himself on April 26, 2000. The Complaint states that plaintiffs sustained pecuniary and non-pecuniary damages as a result of the allegedly wrongful death of Gregory Gillespie ("decedent"). See plaintiffs' Complaint at "WHEREFORE" paragraphs following ¶¶ 13, 18, 23, 26, 28 (plaintiffs' Complaint attached as Exhibit A). The Complaint alleges general claims sounding in

I HEREBY ATTEST AND CERTIFY ON \_\_\_\_\_  
THAT THE FOREGOING DOCUMENT IS A FULL, TRUE  
AND CORRECT COPY OF THE ORIGINAL ON FILE  
IN MY OFFICE AND IN MY LEGAL CUSTODY.

CLERK, U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
BY: \_\_\_\_\_

2003 AUG 13 A 9:07  
HAMPSHIRE SUPERIOR CRT  
HARRY JEKAWOWSKI JR  
CLERK

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
WESTERN DIVISION

VINCENT GILLESPIE  
AND DOES 1-100,

Plaintiffs,

v.

ELI LILLY AND COMPANY  
AND DOES 1-100,

Defendants.

2003 AUG 11 A 8:51

CASE NO. \_\_\_\_\_

JURY TRIAL DEMANDED

DEFENDANT ELI LILLY AND  
COMPANY'S NOTICE OF  
REMOVAL OF CIVIL ACTION

**NOTICE OF REMOVAL OF CIVIL ACTION**

COMES NOW Defendant Eli Lilly and Company ("Lilly"), and, pursuant to 28 U.S.C. § 1441, notices the removal of this action from the Hampshire Superior Court, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts. The grounds for removal are set forth below.

**I. INTRODUCTION**

Plaintiffs Vincent Gillespie and "Does 1-100" ("plaintiffs") filed their Complaint on or about April 25, 2003. In their Complaint, plaintiffs claim that their decedent, Gregory Gillespie ("decedent"), took Prozac®, a prescription antidepressant medication manufactured by Lilly. Plaintiffs further allege that the decedent's ingestion of Prozac® caused the decedent to kill himself on April 26, 2000. The Complaint states that plaintiffs sustained pecuniary and non-pecuniary damages as a result of the allegedly wrongful death of Gregory Gillespie ("decedent"). See plaintiffs' Complaint at "WHEREFORE" paragraphs following ¶¶ 13, 18, 23, 26, 28 (plaintiffs' Complaint attached as Exhibit A). The Complaint alleges general claims sounding in

negligence, intentional tort and product liability. *See* Complaint at ¶¶ 6-9. Plaintiffs demand a jury trial. *See* Complaint at 5.

## II. NOTICE OF REMOVAL IS TIMELY

On July 17, 2003, Lilly received a copy of plaintiffs' Complaint<sup>1</sup> via U.S. Mail. The Complaint was the first pleading Lilly received setting forth the claims for relief on which the action is based. This notice of removal is therefore filed within the 30-day time period prescribed by 28 U.S.C. § 1446(b).

## III. JURISDICTION EXISTS PURSUANT TO 28 U.S.C. § 1332

This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. This case may be removed pursuant to 28 U.S.C. § 1441 because, as explained more fully below, it is a civil action in which the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and involves a controversy between citizens of different states.

### A. The Diversity of Citizenship Requirement is Satisfied

1. No specific information regarding plaintiff Vincent Gillespie's citizenship is provided in the Complaint. Plaintiff Vincent Gillespie admits in the Complaint, however, that he is a resident of the Commonwealth of Massachusetts. *See* Complaint at ¶ 1. For purposes of diversity jurisdiction, citizenship usually is equated with domicile. *Rodriguez-Diaz v. Sierra-Martinez*, 853 F.2d 1027, 1029 (1st Cir.1988).

2. At the time plaintiff commenced this action, and at the time this notice of removal was filed, Lilly was and is a corporation organized under the laws of the State of Indiana with its principal place of business located in Indianapolis, Indiana.

<sup>1</sup> Lilly did not receive a summons with plaintiffs' Complaint as required by Mass. R. Civ. P. 4(a) and was not, therefore, properly served in this case. This ground for dismissal is preserved in Defendant Eli Lilly and Company's Answer to Plaintiffs' Complaint (Affirmative Defense No. 22).

3. The citizenship of the 100 fictitiously named Doe plaintiffs and 100 fictitiously named Doe defendants does not affect diversity of citizenship for removal purposes. 28 U.S.C. § 1441(a) provides that “[f]or purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.” *See also Jackson v. Phillip Morris Inc.*, 46 F.Supp.2d 1217, 1230 n.6 (D. Utah 1998) (“A court determining whether diversity jurisdiction exists can only look at the named plaintiffs and defendants.”); *Casper v. Cunard Line, Ltd.*, 560 F. Supp. 240, 242 (E.D. Pa. 1983) (“In determining the existence of diversity of citizenship, only the citizenship of the named parties need be considered.”)(citing *Snyder v. Harris*, 394 U.S. 332 (1969)).

**B. The Amount In Controversy Requirement is Satisfied**

1. The Complaint demonstrates that the jurisdictional amount in controversy requirement will be easily satisfied. In their Complaint, plaintiffs claims that Prozac® caused decedent to commit suicide and seek both compensatory and punitive damages against Lilly. While Lilly vigorously denies that plaintiffs should recover *any* damages, plaintiffs’ Complaint seeks a significant amount of relief and places more than \$75,000.00 in controversy.

**IV. REMOVAL TO THIS DISTRICT IS PROPER**

1. Removal venue exists in the United States District Court for the District of Massachusetts because the Hampshire Superior Court, Commonwealth of Massachusetts is within the District of Massachusetts.

2. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served to date upon Lilly are attached to this notice as Exhibit A.

3. Written notice of the filing of this notice of removal will be promptly served on Vincent Gillespie, the only named plaintiff in this case, and a copy will be promptly filed with

the Clerk of the Hampshire Superior Court, Commonwealth of Massachusetts, pursuant to 28 U.S.C. § 1446(d).

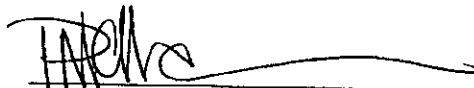
4. Lilly hereby reserves the right to assert any and all defenses to plaintiffs' Complaint, including, but not limited to, insufficiency of process or insufficiency of service of process, lack of personal jurisdiction, and improper venue.

5. Lilly reserves the right to amend or supplement this notice of removal.

6. Lilly hereby requests a trial by jury.

WHEREFORE, Lilly respectfully requests that the above-entitled matter be removed from the Hampshire Superior Court, Commonwealth of Massachusetts.

Respectfully submitted,



James J. Dillon, BBO # 24660  
Paula M. McManus, BBO #648029  
FOLEY HOAG, L.L.P.  
155 Seaport Boulevard  
Boston, Massachusetts 02210  
(617) 832-1000  
Fax: (617) 832-7000

**ATTORNEYS FOR DEFENDANT  
ELI LILLY AND COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8th day of August, 2003, a true and correct copy of Defendant Eli Lilly and Company's Notice of Removal of Civil Action was mailed via first class U.S. Mail, postage prepaid thereon, to the following *pro se* plaintiff:

Vincent Gillespie  
P.O. Box 741  
Northampton, MA 01027

  
\_\_\_\_\_  
**ATTORNEY FOR DEFENDANT  
ELI LILLY AND COMPANY**



RECEIVED

HAMPSHIRE SUPERIOR COURT  
COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT

HAMPSHIRE, ss.

7003 APR 25 P 12:50

SUPERIOR COURT  
CIVIL ACTION  
NO. \_\_\_\_\_

03 083

5238000004/25/03 CIVIL FEES 200.00

\*\*\*\*\*

VINCENT GILLESPIE and  
DOES 1-100,

PLAINTIFFS

VS.

ELI LILLY AND COMPANY  
and DOES 1-100,

DEFENDANTS

\*\*\*\*\*

5238000004/25/03 SURCHARGE 10.00

COMPLAINT

PARTIES

1. Plaintiff, VINCENT GILLESPIE ("Vincent") is a natural person and a beneficiary and a legatee of the Estate of Gregory Gillespie ("Gregory") with a residence at P. O. Box 741, Northampton, Hampshire County, Massachusetts.
1. Defendant ELI LILLY AND COMPANY ("Eli Lilly") is a foreign corporation duly licensed to do business in the Commonwealth of Massachusetts with corporate headquarters at 893 South Delaware Street, Indianapolis, Indiana.

RELEVANT FACTS

2. Plaintiff, Vincent Gillespie is the biological son of Gregory Gillespie and a beneficiary and a legatee of the Estate of Gregory Gillespie.
3. Additional plaintiffs, listed above as DOES 1-100, will be identified when they become known. The general public or a sector of the general public may be determined to be a plaintiff.
4. Defendant Eli Lilly manufactures Prozac, a prescription drug used to alleviate depression.
5. Additional defendants, listed above as DOES 1-100, will be identified when they become known.

6. Gregory was a very well known and renowned artist who died on April 26, 2000 by committing suicide.
7. Greg and took Prozac by prescription for depression and unhappiness during two periods of time, once in 1997 and once in early 2000.
8. It is known that Prozac can have adverse side effects. The second time he took it he displayed three typical symptoms of the adverse side effects of Prozac:
  - 8.1. *Insomnia*: He became extremely depressed and he was unable to sleep; he had a sleep machine (it created a choice of four soothing sounds to help one to go to sleep).
  - 8.2. *Anger*: In a suicide note he said that the suicide was probably the angriest thing he had ever done.
  - 8.3. *Depression*: he became exceedingly depressed in the weeks before he killed himself. This was evidenced in conversations he had with me and also in a photo of himself contained in one of his most recent art pieces.
9. As a direct and proximate result of the conduct of defendant Eli Lilly's breach of duty of care, protection and safety and negligent, reckless, unskillful, careless, grossly negligent, willful and /or wanton acts and omissions, the decedent was caused to sustain severe pain of body and mind and finally committed suicide and he also incurred conscious pain and suffering, loss of love services and comfort, consortium to next of kin and the emotional distress and mental anguish and mental pain and suffering suffered by next of his kin.

### COUNT I

#### WRONGFUL DEATH

10. The Plaintiff, Vincent Gillespie, a beneficiary and legatee of the Estate of Gregory Gillespie, reasserts and re-alleges all the allegations of paragraphs 1-9 of this complaint and incorporates them by reference into this count.
11. The Defendant owed a duty of care, protection, and safety to Gregory Gillespie and knowingly, willfully, deliberately and recklessly breached that duty.
12. As a direct and proximate result of the breach of duty of care and acts of Defendant Eli Lilly as described in Paragraphs 1-9 of this complaint, Gregory Gillespie was caused to suffer conscious pain and suffering and his eventual suicide.
13. This count is for wrongful death pursuant to M.G.L. c. 229 § 2 brought by Vincent Gillespie, as beneficiaries and legatees of the Estate of his father Gregory Gillespie, seeking recovery for the fair monetary value of the decedent including but not limited to compensation for the loss of the decedent's reasonably expected net income, services, protection, protection, care, assistance, society, companionship, comfort, guidance, counsel and advice, and punitive damages.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie REQUESTS THE HONORABLE COURT TO GRANT judgment against the Defendant, Eli Lilly, for Compensatory and Punitive and any other damages in such amount as the Court shall deem just and proper with interest and costs.

## **COUNT II**

### **CONSCIOUS PAIN AND SUFFERING**

14. The Plaintiff, Vincent Gillespie, a beneficiary and legatee of the Estate of Gregory Gillespie, re-alleges all the allegations of paragraphs 1-13 of this complaint and incorporates them by reference into this count.
15. The Defendant owed a duty of care, protection, and safety to Gregory Gillespie and knowingly, willfully, deliberately and recklessly breached that duty.
16. This count is for Conscious Pain and Suffering pursuant to M.G.L. c. 229 §6 brought by Vincent Gillespie, as a beneficiaries and legatee of the Estate of his father Gregory Gillespie, deceased, seeking recovery for the fair monetary value.
17. As a direct and proximate result of the acts of the Defendant Eli Lilly as described in Paragraphs 1-9 of this complaint, Gregory Gillespie was caused to suffer conscious pain and suffering and his eventual suicide.
18. The Defendant, Eli Lilly as the manufacturer of Prozac is strictly responsible to the plaintiff pursuant to M.G.L. c. 138 § 14.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie requests the honorable court to Grant Judgment against the Defendant, Eli Lilly, for Compensatory and Punitive and any other damages in such amount as the Court shall deem just and proper with interest and costs.

## **COUNT III**

### **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

19. The Plaintiffs reassert and re-alleges each and every allegation contained in Paragraphs 1 to 18 and incorporates them here in by reference.
20. The acts and practice and conduct of the Defendant Eli Lilly have caused Defendant Vincent to suffer emotional distress resulting in mental anguish, pain, fear, sleeplessness, anxiety, fear, depression and other difficulties and injuries.

21. The Defendant Eli Lilly intended to inflict emotional distress or knew or should have known that emotional distress was the likely result of its conduct.
22. The acts and Practices and conduct of the Defendant Eli Lilly were extreme and outrageous, were beyond all possible bounds of decency and were utterly intolerable in a civilized society.
23. The Emotional Distress sustained by the Plaintiff as the result of the acts and Practices and conduct of the Defendant Eli Lilly was severe and of a nature that no reasonable man could be expected to endure it.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie requests the honorable court to Grant Judgment against the Defendant, Eli Lilly, for Intentional Infliction of Emotional Distress and Punitive and any other damages in such amount as the Court shall deem just and proper with interest and costs.

#### COUNT IV

##### NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS

24. The Plaintiff reassert and re-alleges each and every allegation contained in Paragraphs 1 to 25 and incorporates them herein by reference.
25. Defendant knew or should have known that the acts alleged in the third cause of action set forth above would cause Plaintiff severe emotional distress.
26. As a proximate result of Defendant's negligent acts, Plaintiff has been subjected to severe emotional distress in the form of sorrow, worry, great stress, anguish and depression.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie requests the honorable court to Grant Judgment against the Defendant, Eli Lilly, for Negligent Infliction of Emotional Distress and Punitive and any other damages in such amount as the Court shall deem just and proper with interest and costs.

#### COUNT V

##### LOSS OF CONSORTIUM

27. The Plaintiff reassert and re-alleges each and every allegation contained in Paragraphs 1 to 26 and incorporates them here in by reference.
28. By reasons of wrongful death and conscious suffering caused by the defendant the Plaintiff has lost love, affection, society, life, fellowship, comfort, moral support,

solace and all the assistance that accompanies the father-son relationship for the past three years and in the future as the injury is indelible and irreparable. The Plaintiff has been permanently deprived of his father's consortium.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie request the honorable court to Grant Judgment against the Defendant, Eli Lilly for Loss of Consortium and any other damages in such amount as the Court shall deem just and proper with interest and costs.

**DEMAND FOR JURY TRIAL**

The Plaintiff, Vincent Gillespie, DEMANDS A JURY TRIAL on all the Counts.

April 25, 2003

  
Vincent Gillespie, Plaintiff

P. O. Box 741  
Northampton, MA 01027  
Phone: (413) 695-3637

Commonwealth of Massachusetts  
County of Hampshire  
The Superior Court

03 083

3.

CIVIL DOCKET# HSCV2003-00083

RE: Gillespie et al v Eli Lilly Company et al

**ORDER OF  
DISMISSAL UNDER STANDING ORDER 1-88**

This action came on before the Court, pursuant to Standing Order 1-88, and it appearing that service of process has not been completed upon the defendant(s) named below, it is **ORDERED** that the complaint is hereby dismissed, without prejudice, with respect to said defendant(s).

**Dismiss: Does 1-100** : service not complete by 1-88 deadline. Copy mailed to plaintiff.

This order may be vacated only by the Regional Administrative Judge or (designee).

Dated at Northampton, Massachusetts this 1st day of August, 2003

By the Court (McDonald, J. )



Harry Jekanowski, Jr.,  
Clerk of Courts

P.C. Vincent Gillespie, plaintiff

2.

03 083

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the original complaint filed by Vincent Gillespie on 4/25/2003 with the Hampshire County Superior Court in Northampton, MA in the case of Vincent Gillespie and Does 1-100 vs. Eli Lilly and Company and Does 1-100, case # 03083, was mailed by certified mail, return receipt requested, with the US Postal Service on 7/14/2003 to the following address: Legal Department, Eli Lilly and Company, Lilly Corporate Center, Indianapolis, Indiana 46285. The original proof of service form, signed by the recipient at Eli Lilly and Company, has been filed with the Hampshire County Superior Court on 7/23/2003.

Signed under the pains and penalties of perjury on 7/23/2003 in Easthampton, MA.

Dated:

7/23/03

*Vincent Gillespie*  
 Vincent Gillespie

P. O. Box 741  
 Northampton, MA 01061  
 413-695-3637

## SENDER: COMPLETE THIS SECTION

Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Legal Department  
 Eli Lilly and Company  
 Lilly Corporate Center  
 Indianapolis, Indiana  
 46285

Article Number  
 (Transfer from service label)

7002 2410 0001 9963 9054

PS Form 3811, August 2001

Domestic Return Receipt

2ACPRI-03-Z-0985

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

x *Jeremiah Males*
☐ Agent  
☐ Addressee

B. Received by (Printed Name)

*Jeremiah Males*

C. Date of Delivery

*7/17/03*

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

JUL 24 P 2:24

HAMP SHIRE SUPERIOR CRT  
HARRY JEKAHOWSKI JR  
CLERKHAMP SHIRE SUPERIOR CRT  
HARRY JEKAHOWSKI JR  
CLERK



HAMPSHIRE SUPERIOR COURT  
COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT

HAMPSHIRE, ss.

2003 APR 25 P 12:50

SUPERIOR COURT  
CIVIL ACTION  
NO. \_\_\_\_\_

13 083

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VINCENT GILLESPIE and  
DOES 1-100,

PLAINTIFFS

VS.

ELI LILLY AND COMPANY  
and DOES 1-100,

DEFENDANTS

\*\*\*\*\*

FILED 000004/25/03 CIVIL FEES 200.00

FILED 000004/25/03 SURCHARGE 10.00

COMPLAINT

PARTIES

1. Plaintiff, **VINCENT GILLESPIE** ("Vincent") is a natural person and a beneficiary and a legatee of the Estate of Gregory Gillespie ("Gregory") with a residence at P. O. Box 741, Northampton, Hampshire County, Massachusetts.
1. Defendant **ELI LILLY AND COMPANY** ("Eli Lilly") is a foreign corporation duly licensed to do business in the Commonwealth of Massachusetts with corporate headquarters at 893 South Delaware Street, Indianapolis, Indiana.

RELEVANT FACTS

2. Plaintiff, Vincent Gillespie is the biological son of Gregory Gillespie and a beneficiary and a legatee of the Estate of Gregory Gillespie.
3. Additional plaintiffs, listed above as DOES 1-100, will be identified when they become known. The general public or a sector of the general public may be determined to be a plaintiff.
4. Defendant Eli Lilly manufactures Prozac, a prescription drug used to alleviate depression.
5. Additional defendants, listed above as DOES 1-100, will be identified when they become known.

6. Gregory was a very well known and renowned artist who died on April 26, 2000 by committing suicide.
7. Greg and took Prozac by prescription for depression and unhappiness during two periods of time, once in 1997 and once in early 2000.
8. It is known that Prozac can have adverse side effects. The second time he took it he displayed three typical symptoms of the adverse side effects of Prozac:
  - 8.1. *Insomnia*: He became extremely depressed and he was unable to sleep; he had a sleep machine (it created a choice of four soothing sounds to help one to go to sleep).
  - 8.2. *Anger*: In a suicide note he said that the suicide was probably the angriest thing he had ever done.
  - 8.3. *Depression*: he became exceedingly depressed in the weeks before he killed himself. This was evidenced in conversations he had with me and also in a photo of himself contained in one of his most recent art pieces.
9. As a direct and proximate result of the conduct of defendant Eli Lilly's breach of duty of care, protection and safety and negligent, reckless, unskillful, careless, grossly negligent, willful and /or wanton acts and omissions, the decedent was caused to sustain severe pain of body and mind and finally committed suicide and he also incurred conscious pain and suffering, loss of love services and comfort, consortium to next of kin and the emotional distress and mental anguish and mental pain and suffering suffered by next of his kin.

### COUNT I

#### WRONGFUL DEATH

10. The Plaintiff, Vincent Gillespie, a beneficiary and legatee of the Estate of Gregory Gillespie, reasserts and re-alleges all the allegations of paragraphs 1-9 of this complaint and incorporates them by reference into this count.
11. The Defendant owed a duty of care, protection, and safety to Gregory Gillespie and knowingly, willfully, deliberately and recklessly breached that duty.
12. As a direct and proximate result of the breach of duty of care and acts of Defendant Eli Lilly as described in Paragraphs 1-9 of this complaint, Gregory Gillespie was caused to suffer conscious pain and suffering and his eventual suicide.
13. This count is for wrongful death pursuant to M.G.L. c. 229 § 2 brought by Vincent Gillespie, as beneficiaries and legatees of the Estate of his father Gregory Gillespie, seeking recovery for the fair monetary value of the decedent including but not limited to compensation for the loss of the decedent's reasonably expected net income, services, protection, protection, care, assistance, society, companionship, comfort, guidance, counsel and advice, and punitive damages.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie REQUESTS THE HONORABLE COURT TO GRANT judgment against the Defendant, Eli Lilly, for Compensatory and Punitive and any other damages in such amount as the Court shall deem just and proper with interest and costs.

## **COUNT II**

### **CONSCIOUS PAIN AND SUFFERING**

14. The Plaintiff, Vincent Gillespie, a beneficiary and legatee of the Estate of Gregory Gillespie, re-alleges all the allegations of paragraphs 1-13 of this complaint and incorporates them by reference into this count.
15. The Defendant owed a duty of care, protection, and safety to Gregory Gillespie and knowingly, willfully, deliberately and recklessly breached that duty.
16. This count is for Conscious Pain and Suffering pursuant to M.G.L. c. 229 §6 brought by Vincent Gillespie, as a beneficiaries and legatee of the Estate of his father Gregory Gillespie, deceased, seeking recovery for the fair monetary value.
17. As a direct and proximate result of the acts of the Defendant Eli Lilly as described in Paragraphs 1-9 of this complaint, Gregory Gillespie was caused to suffer conscious pain and suffering and his eventual suicide.
18. The Defendant, Eli Lilly as the manufacturer of Prozac is strictly responsible to the plaintiff pursuant to M.G.L. c. 138 § 14.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie requests the honorable court to Grant Judgment against the Defendant, Eli Lilly, for Compensatory and Punitive and any other damages in such amount as the Court shall deem just and proper with interest and costs.

## **COUNT III**

### **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

19. The Plaintiffs reassert and re-alleges each and every allegation contained in Paragraphs 1 to 18 and incorporates them here in by reference.
20. The acts and practice and conduct of the Defendant Eli Lilly have caused Defendant Vincent to suffer emotional distress resulting in mental anguish, pain, fear, sleeplessness, anxiety, fear, depression and other difficulties and injuries.

21. The Defendant Eli Lilly intended to inflict emotional distress or knew or should have known that emotional distress was the likely result of its conduct.
22. The acts and Practices and conduct of the Defendant Eli Lilly were extreme and outrageous, were beyond all possible bounds of decency and were utterly intolerable in a civilized society.
23. The Emotional Distress sustained by the Plaintiff as the result of the acts and Practices and conduct of the Defendant Eli Lilly was severe and of a nature that no reasonable man could be expected to endure it.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie requests the honorable court to Grant Judgment against the Defendant, Eli Lilly, for Intentional Infliction of Emotional Distress and Punitive and any other damages in such amount as the Court shall deem just and proper with interest and costs.

#### **COUNT IV**

##### **NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**

24. The Plaintiff reassert and re-alleges each and every allegation contained in Paragraphs 1 to 25 and incorporates them herein by reference.
25. Defendant knew or should have known that the acts alleged in the third cause of action set forth above would cause Plaintiff severe emotional distress.
26. As a proximate result of Defendant's negligent acts, Plaintiff has been subjected to severe emotional distress in the form of sorrow, worry, great stress, anguish and depression.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie requests the honorable court to Grant Judgment against the Defendant, Eli Lilly, for Negligent Infliction of Emotional Distress and Punitive and any other damages in such amount as the Court shall deem just and proper with interest and costs.

#### **COUNT V**

##### **LOSS OF CONSORTIUM**

27. The Plaintiff reassert and re-alleges each and every allegation contained in Paragraphs 1 to 26 and incorporates them here in by reference.
28. By reasons of wrongful death and conscious suffering caused by the defendant the Plaintiff has lost love, affection, society, life, fellowship, comfort, moral support,

solace and all the assistance that accompanies the father-son relationship for the past three years and in the future as the injury is indelible and irreparable. The Plaintiff has been permanently deprived of his father's consortium.

WHEREFORE, The Plaintiff, Vincent Gillespie, as a beneficiary and legatee of the Estate of his father Gregory Gillespie request the honorable court to Grant Judgment against the Defendant, Eli Lilly for Loss of Consortium and any other damages in such amount as the Court shall deem just and proper with interest and costs.

**DEMAND FOR JURY TRIAL**

The Plaintiff, Vincent Gillespie, DEMANDS A JURY TRIAL on all the Counts.

April 25, 2003



Vincent Gillespie, Plaintiff  
P. O. Box 741  
Northampton, MA 01027  
Phone: (413) 695-3637

**B**

HAMPSHIRE SUPERIOR COURT  
COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT

HAMPSHIRE, ss.

2003 APR 25 P 12: 50

SUPERIOR COURT  
CIVIL ACTION  
NO. \_\_\_\_\_

03 083

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VINCENT GILLESPIE and  
DOES 1-100,

PLAINTIFFS

VS.

ELI LILLY AND COMPANY  
and DOES 1-100,

DEFENDANTS

\*\*\*\*\*

000004/25/03 CIVIL FEES 200.00

5238A000004/25/03 SURCHARGE 10.00

COMPLAINT

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**DEMAND FOR JURY TRIAL**

The Plaintiff, Vincent Gillespie, DEMANDS A JURY TRIAL on all the Counts.

April 25, 2003



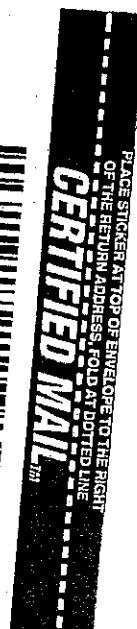
Vincent Gillespie, Plaintiff

P. O. Box 741

Northampton, MA 01027

Phone: (413) 695-3637

Vincent Gillespie  
P.O. Box 741  
Northampton, MA 01061



78002 2410 0001 9963 9054

RETURN RECEIPT  
REQUESTED

106B  
P. Document



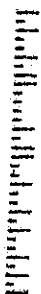
46285

U.S. POSTAGE  
PAID  
EASTHAMPTON, MA  
JUL 14 2003  
AMOUNT

\$4.65

Legal Department  
Eli Lilly and Company  
Lilly Corporate Center  
Indianapolis, Indiana, 46285

Rec'd  
7/17/03





## Commonwealth of Massachusetts

The Trial Court

HAMPSHIRE Division

Probate and Family Court Department

Docket No. 00P0296CP.

## Probate of Will With/Without Sureties

Name of Decedent Gregory Gillespie

May 24 2 23 PM '00

Domicile at Death 715 Federal Street  
(Street and No.)Belchertown  
(City or Town)Hampshire  
(County)01007  
(Zip)Date of Death April 27, 2000Name and address of Petitioner(s) Peggy R. Gillespie, 715 Federal Street, Belchertown, MA 01007Status nominated executor

## Heirs at law or next of kin of deceased including surviving spouse:

| Name                             | Residence<br>(minors and incompetents must be so designated)                             | Relationship    |
|----------------------------------|--|-----------------|
| <u>Peggy R. Gillespie</u>        | <u>715 Federal Street, Belchertown, MA 01007</u>   | <u>spouse</u>   |
| <u>Juliana M. Gillespie</u>      | <u>715 Federal Street, Belchertown, MA 01007</u>   | <u>daughter</u> |
| <u>Vincent J. Gillespie</u>      | <u>10933 Whipple St., #11, N. Hollywood, CA 91602</u>                                    | <u>son</u>      |
| <u>Lydia Gillespie Chiaminto</u> | <u>Austin Riggs Center, P.O. Box 962</u><br><u>25 Main Street, Stockbridge, MA 01262</u> | <u>daughter</u> |

That said deceased left a will — and codicil(s) — herewith presented, wherein your petitioner(s) is/are named executrix and wherein the testator had requested that your petitioner(s) be exempt from giving surety on his/her/their bond(s).

☒ The petitioner(s) hereby certifies that a copy of this document, along with a copy of the decedent's death certificate has been sent by certified mail to the Department of Public Welfare, P.O. Box 86, Essex Station, Boston, Massachusetts 02112.

Wherefore your petitioner(s) pray(s) that said will — and codicil(s) — may be proved and allowed, and that he/she/they be appointed executrix thereof, with/without surety on his/her/their bond(s) and certifies under the penalties of perjury that the statements herein contained are true to the best of his/her/their knowledge and belief.

Date May 22, 2000Signature(s) Peggy R. Gillespie  
Peggy R. Gillespie

The undersigned hereby assent to the foregoing petition and to the allowance of the will without testimony.

## DECREE

All persons interested having been notified in accordance with the law or having assented and no objections being made thereto, it is decreed that said instrument(s) be approved and allowed as the last will and testament of said deceased, and that said petitioner(s): Peggy R. Gillespie of Belchertown in the County of Hampshire

~~xxx~~ ~~xxx~~ be appointed executrix thereof, first giving bond with out sureties for the due performance of said trust.

Date 7/13/00

Stephen M. Raines  
JUSTICE OF THE PROBATE AND FAMILY COURT

CJ-P2 (9/92)

Hampshire, ss, Probate Court, Northampton, Mass.,

A true photocopy.

Attest: David E. Sullivan Register

SEP 24 2003

The Trial Court  
The Probate and Family Court Department

Hampshire, ss.

Docket No. 00P0296EP

JUN 7 12 13 PM '00

FILED  
HAMPSHIRE  
PROBATE DIVISION

Peggy R. Gillespie, Executor )  
Of the will of )  
Gregory Gillespie, )  
Petitioner )

MOTION

In the matter of the petition of Peggy R. Gillespie of Belchertown in the county of Hampshire for the Probate of the Last Will and Testament of Gregory Gillespie, now comes Peggy R. Gillespie, by her attorney, William E. Hart, and moves that the petition be amended to show that Julianna M. Gillespie is a minor.

Respectfully submitted,  
The Petitioner,  
Peggy R. Gillespie,

Dated: May 31, 2000

By: William E. Hart  
William E. Hart, Esquire  
BBO# 224300  
BROWN, HART, KAPLAN  
& GOLOWICH, LLP  
35 South Pleasant Street  
Amherst, MA 01002  
(413) 256-8125

The Within Motion is Hereby  
Allowed/Denied  
Date 6/6/00

Deborah J. Sullivan  
JUDGE OF PROBATE COURT

Hampshire, ss, Probate Court, Northampton, Mass.,

A true photocopy,

Attest: David E. Sullivan Register

SEP 24 2003